IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.7168 OF 2007

Prakash Shah : Petitioner

V/s.

Yusuf ali Abdul Hussain & Ors. : Respondents

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Mr.Omkar Warange for the petitioner.

Ms Eventia A. Gonsalves for respondent nos.1 to 3.

...

CORAM : S.A.BOBDE, J.

DATE : NOVEMBER 02, 2007.

P.C.

Rule, returnable forthwith.

Ms Gonsales waives service for the respondent nos.1 to 3.

Heard by consent.

2. After hearing the matter for sometime, it appears that the only reason why the learned appellate Court rejected the application for condonation of delay is that the period after receiving certified copy on 22.2.2006 upto the time the appeal was filed on 17.4.2006 has not been explained by the petitioner. Having regard to the fact that the petitioner was a litigant in person who had filed

the appeal and the application for condonation of delay in person and having regard to the submissions made before this Court that there were reasons which the petitioner did not mention through oversight in the application for condonation of delay, I consider it appropriate, in the interest of justice, to set aside the impugned order and remand the matter back to the lower appellate Court for giving an opportunity to the petitioner to file a fresh application for condonation of delay.

3. It is made clear that there is no error on the part of the lower appellate Court in having refused to condone the delay on the ground that sufficient explanation was not given for the period mentioned above.

4. In the result, the impugned order is hereby set aside. The matter is remanded back to the lower appellate Court to enable the petitioner to make a fresh application for condonation of delay which shall be disposed of, in accordance with law. The rule is made absolute in the above terms.

S.A. BOBDE, J.